



# Art & Cultural Property Law

NEWSLETTER EDITION 2 – NOVEMBER 2024

**KINGSLEY NAPLEY**  
WHEN IT MATTERS MOST

Welcome to the second edition of the **KN Art & Cultural Property Law newsletter**, which has been prepared by our team of specialist lawyers.

Art and cultural property law continues to develop quickly, and in very interesting directions. Our team at Kingsley Napley have been keeping a close eye on developments in this arena, with our experts in civil fraud, criminal litigation, AML compliance, data protection and intellectual property rights providing pragmatic, innovative, holistic legal advice to suit the needs of the sector. In this edition of the newsletter, we feature an interview with professional photographer and photojournalist Bex Wade (they/them) who is the first trans or non-binary artist to have their work on permanent display at London's V&A Museum. We also highlight issues raised by a number of recent art thefts (including works by Picasso and Banksy), an explanation of the latest tax implications of owning art as a private collector — and much more.

The contents of this newsletter are for information only, and must not be relied on as legal or professional advice. For further information or advice on any of issues we have written about here, please speak to your usual KN contact, or [visit this page](#) to contact the specialist Art & Cultural Property Law team.

*Thank you to Teresa Young and Phil Taylor for their help in preparing this newsletter.  
Cover image: 'Bloody Mary' / © 2010 Bex Wade / Used with permission.*



**Nicola Finnerty**  
Partner



**Melanie Hart**  
Partner



## Key Statistics

# 626

stolen items recovered so far by the British Museum, out of a total of 2,000 missing from its collections

# 3,000

years old is believed to be the age of a gold torc stolen from a museum in Cambridgeshire

# 50,000+

pieces of artwork are stolen each year from museums and galleries worldwide

# £325,000

is the limit on the value of gifts which can be made free of inheritance tax every seven years, on a rolling basis

## Key Acronyms

**AML** – Anti-money laundering

**AMP** – Art market participant

**CPS** – Crown Prosecution Service

**FATF** – Financial Action Task Force

**HMRC** – His Majesty's Revenue & Customs

**MLRs** – The Money Laundering Regulations 2017 (as amended)

**NCA** – National Crime Agency

**NFT** – Non-fungible token

**POCA** – Proceeds of Crime Act 2002

**SFO** – Serious Fraud Office



Photo: Francesca Parker

## The Andy Warhol Flat

Members of Kingsley Napley's Art & Cultural Property Law group, which spans multiple practice areas (including civil fraud and criminal litigation) and provides services to domestic and international clients, together with a handful of guests from the legal industry, attended a private viewing at the Andy Warhol Art Flat on Strand, Central London in July 2024.

The private gallery showcases original photographs, taken by fine art photographer William John Kennedy, of the works of Andy Warhol and Robert Indiana during the emergence of the Pop Art movement, along with original works by Banksy.

Our host for the evening, Neil Bookatz, a collector of unique memorabilia, delighted the group with the remarkable story of William John Kennedy. Kennedy became friends with Warhol and Indiana in the 1960s, during which time he took intimate, creative, and colourful photographs of the artists with their early works. Many of the photo sessions took place at the studios of the artists, including Warhol's Factory. Extraordinarily, Kennedy's prints and negatives, showing Warhol and Indiana with their early works, were forgotten about for nearly 50 years, having been stored in

a box in the back of a cupboard. Fortunately, the time capsule was discovered decades later, in 2008, and Kennedy's photographs were publicised.

Kennedy's best-known photographs include Indiana with his Love painting, and a striking black and white photograph of Warhol holding up the Marilyn acetate. Warhol's Marilyn artwork is considered the most iconic of all his works; it is fitting that Kennedy's photograph of the acetate became his most iconic.

The Art Flat, which is dedicated to paying homage to Kennedy, is abound with Kennedy's original photographs; there are photographs everywhere you look – on the kitchen table, on top of the bed, and even in the shower. In addition to Kennedy's photographs, there are original Banksies – however, one really ought to visit the private gallery to hear the story behind those artworks!

With thanks to Neil Bookatz for a wonderful evening of art, champagne, and sushi.

# Anti-money laundering

## HMRC: Art market fines

HMRC's latest list of supervised businesses that have been penalised for non-compliance with the MLRs was published in June 2024. The latest list reveals that, in the six months between 1 April and 30 September 2023:

- 32 AMPs received penalties
- The majority of penalties ranged between £3,000 - £5,000
- Four penalties were in excess of £10,000
- The highest penalty was £18,200 and the lowest was £1,162

Similar to the data we highlighted in edition 1 of this newsletter, all of the penalties received by AMPs during the period in question were incurred for late registration (a breach of regulation 56(6) of the MLRs, which prohibits an AMP from carrying on business without applying for registration). This is a situation which should be easy for AMPs to avoid.

As we noted last time, businesses which register late and thereby voluntarily disclose a lack of compliance may benefit from an exercise of discretion by HMRC and therefore a reduction in fines (with further reductions for prompt payment).

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[HMRC publication](#)

## New EU AML Directive and Regulation to further tighten supervision and access to ownership information

The EU's sixth anti-money laundering Directive (AMLD6) has been adopted and was published in the Official Journal of the EU on 19 June 2024. AMLD6 seeks to further harmonise AML regulation across the EU, and much of it will need transposing into national law in the bloc's Member States, in general by 10 July 2027. On the same date, a new EU AML Regulation was also published, and is now in force. The Regulation sets out updated EU-wide rules on points such as the policies, controls and procedures which relevant entities are required to put into place, customer due diligence obligations and transparency of beneficial ownership.

Although the UK is no longer directly affected by EU legal instruments, AMPs registered here are likely to find themselves impacted when dealing with businesses in the EU over the next few years. For example, one significant development under AMLD6 relates to central registers holding data on beneficial ownership. Register supervisors will have the power to verify data in the register, including by carrying out inspections at the premises of legal entities. In addition, competent authorities (including the EPPO and OLAF), will obtain direct access to registers across the EU, and members of the public with legitimate interest (such as journalists and authorities from third countries) will also be able to access information on the register.

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[European Parliament](#)



# Civil litigation

## US artists allowed to continue AI class action lawsuit

A US judge ruled in August 2024 that a group of artists may continue claims against AI image generation platforms for alleged copyright infringement.

This marks the latest development in a series of class action claims by visual artists against AI image generation software owned by Midjourney, Stability AI, DeviantArt, and Runway AI. First filed in January 2023, the lawsuit was dismissed by a federal judge in October 2023. The plaintiffs were allowed to submit an amended complaint in late 2023 which included adding seven more plaintiffs and language to consider photography among the art whose copyright protections were allegedly violated by generative platforms.

The artists' case hinges on the key issue that companies such as Midjourney use artificial intelligence to generate images based on data sets that include artwork protected by copyright. Though the case's central question – of whether these actions fall under fair use or violate the artists' copyright – remains unanswered, the California judge's August ruling has been considered by some to be a victory in the ongoing case. Where previous allegations by artists against AI companies on grounds including unjust enrichment, breach of contract, and more obscure US copyright laws were dismissed, this class action lawsuit will continue to progress through the US judicial system.

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[ArtNet](#)

## US regulators threaten to sue major NFT marketplace

The popular NFT marketplace OpenSea was surprised in late August 2024 when it received a warning from the US Securities and Exchange Commission (SEC) that the regulator intends to bring future legal action for the unregulated sale of digital assets. While this is not the first time the SEC has taken aim at NFTs, the notice sent to OpenSea suggests the SEC will continue to treat NFTs as fiscal commodities rather than artwork.

OpenSea maintains that non-fungible tokens (NFTs) are predominantly creative goods, rather than unregistered securities as the SEC suggests. To regulate digital art in the same way as federal securities, OpenSea argues, would limit artists and put their livelihoods at risk.

Over the summer, two US artists made headlines by issuing their own claim against the SEC. The lawsuit by law professor and artist Brian L Frye and musician Jonathan Mann seeks a judicial opinion over whether artists should be required to register their pieces as securities before they can be sold. The claim suggests that it would be considered unimaginable to require influential artists like Georgia O'Keeffe or Jean-Michel Basquiat to "register" their artworks, and that digital assets should not be treated any differently than physical pieces.

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[ArtNet on OpenSea](#) | [ArtNet on artists' lawsuit against SEC](#)

## Judgment delivered in first US lawsuit on Nazi-looted art

A New York Supreme Court judge has handed down a ruling on the US's first trial on Nazi-looted art, a complex dispute involving multiple parties and spanning nearly a decade.

A lost drawing by the Austrian Expressionist Egon Schiele was discovered in Paris in 2013. It is believed the watercolour portrait was acquired in London in 1964 by Robert Owen Lehman, Sr., of the Lehman Brothers investment bank, before it was rediscovered in a Paris apartment owned by his son's ex-wife. When the Schiele was evaluated by Christie's in 2016, the auction house's database revealed the artwork may have originally belonged to one of two Viennese art collectors: Heinrich Rieger and Karl Mayländer. The two men, who were both killed by Nazis, were close associates of Schiele and owned many similar art pieces from the artist. In 2016, the Lehman Foundation initiated the suit against Mayländer and Rieger's estates, with each party claiming its own right to the lost Schiele drawing.

In August, the judge ultimately ruled in favour of Karl Mayländer's heirs. In the 86-page decision, the state Supreme Court justice found the artwork was most likely left by Mayländer to a woman named Etelka Hofmann, who sold the item when Mayländer was killed at the Łódź ghetto in Nazi-occupied Poland. Key evidence in the trial included a handwritten sale contract containing a description of the portrait, which was purchased by a Viennese art collector in 1960. The piece was later sold in Turin, Italy before London's Marlborough Gallery bought it in 1963 or 1964.

Mayländer's last descendant passed away earlier this year. The Schiele was gifted to the Susan Zirkl Memorial Foundation Trust, a New York-based charity funding autism research.

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[ArtNet](#) | [Forbes](#)



*The court was asked to decide the question of who owned the van Dyck: Geoffrey, or the Trustees in Bankruptcy?*

## Analysis: Why art collectors should care about James Stunt and the Cheeke Sisters

*By Ellie Fayle, Associate, Dispute Resolution*

In roughly 1640, Sir Anthony van Dyck painted what is known today as the 'Double Portrait of the Cheeke Sisters', depicting two sisters, wearing copper and silver coloured gowns, standing against an English countryside background. It is valued at approximately £4 million. The painting was purchased in 2013 from Fergus Hall Limited ("FHL") for £600,000 by James Stunt, who had (according to his father, Geoffrey Stunt) identified it as a good investment in 2012.

In 2019, James was declared bankrupt and his assets were vested in his Trustees in Bankruptcy. Shortly afterwards, James proposed an individual voluntary arrangement to his creditors, in which he included the painting as part of his assets. The individual voluntary arrangement was not accepted by his creditors, and the bankruptcy continued. In 2020, Geoffrey claimed that he was, in fact, the legal and beneficial owner of the painting and so it should not be considered part of the bankruptcy estate. The court was asked to decide the question of who owned the van Dyck: Geoffrey, or the Trustees in Bankruptcy?

The resulting court case (*Adrian Hyde (As Joint Trustee in Bankruptcy of James Stunt) v Geoffrey Lee Stunt* [2024] EWHC 630 (Ch)) is a valuable illustration of the danger that art collectors (and, in particular, those for whom acquiring art runs in the family) face if they ever find themselves in a dispute without having taken appropriate precautions.

## The Cheeke of it...

Geoffrey argued that James had suggested the painting as a good investment in 2012 and, that he subsequently visited FHL's gallery to view the painting and review the provenance. Geoffrey and James agreed that Geoffrey paid for the painting by cheque, drawing on his own personal account; the painting was subsequently loaned to the Huntington Library in California. The Trustees in Bankruptcy asserted that James had purchased the painting under a contract between himself and FHL, using his father's money as either a loan or a gift. Evidence for this included the fact that:

- the invoice was addressed to James, with his address being in Los Angeles, CA;
- the painting was never delivered to Geoffrey, and was instead exported directly to the US;
- the export licence identified James as the owner;
- James was held out to be the sole owner whilst the painting was at the Huntington; and,
- in 2018, James (according to Geoffrey, without his knowledge) had agreed to sell the painting at Christie's (holding himself out as the sole owner), and arranging for it to be delivered from the Huntington to Christie's.



After hearing oral evidence, the Court concluded that James was the legal and beneficial owner of the painting and, consequently, it vested in his bankruptcy estate. The Court acknowledged that Geoffrey's paying for the painting was important evidence. However, the nature of the father-son relationship supported a presumption of advancement, meaning that Geoffrey was taken to have purchased the painting as a gift for his son. This conclusion was supported by evidence that Geoffrey had historically allowed James to use his black American Express card for "very substantial sums", including purchasing a flat.

## A cautionary tale

The fundamental issue in this case was the limited amount of documentary evidence.

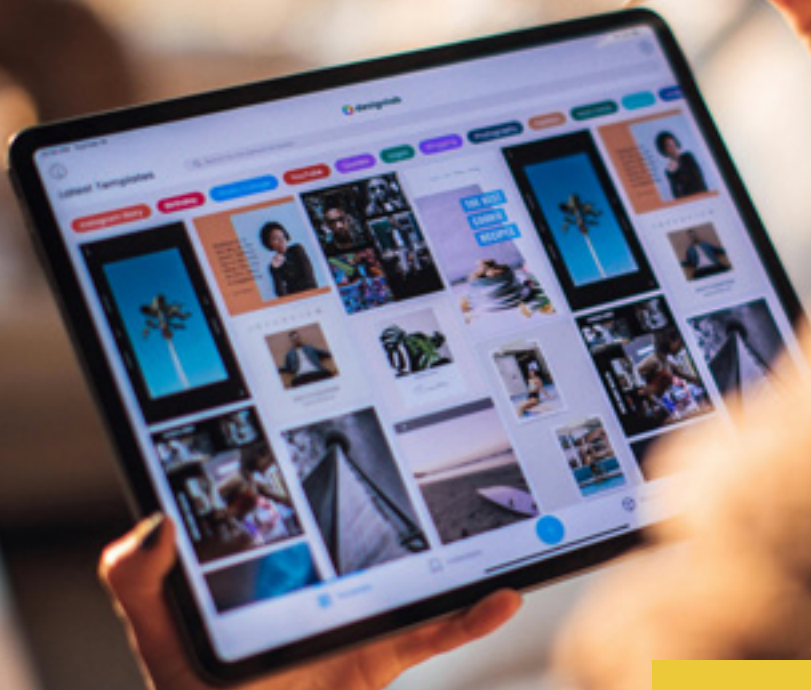
When a bankruptcy order is made, the bankrupt's assets will automatically vest in the Trustees in Bankruptcy. The burden of proof will be on the person who asserts an interest in any of the bankrupt's assets – in this instance, Geoffrey. We will never know what Geoffrey and James truly intended when the painting was purchased, but the absence of any documentary evidence to support Geoffrey's assertions proved fatal to his case. Geoffrey did not take steps to assert his ownership until the summer of 2020 when he attempted (via his solicitors) to recover the painting from Christie's. This was after James had been charged with various criminal offences in May 2020 (although by the time the civil case was heard, James had been acquitted of all but one charge, concerning money laundering).

When acquiring art, particularly where financial assistance is obtained from a family member, it is essential to properly record the ownership intention, supported by contemporaneous (and, as time passes, consistent) documentary evidence. Failure to do so will, in the event of a dispute, result in the Court being forced to draw its own conclusions on the basis of:

- inferences from the parties' relationship and past dealings;
- such documentary evidence as does exist, which will invariably not support an interpretation beyond what it says on its face; and
- inferences from what documentation does not, in fact, exist.

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A longer version of this article can be found on our website [here](#). To find out more about our civil disputes practice, including civil fraud and investigations, [click here](#)



*"Digital art may be new, but old rules still apply: making false promises for money is illegal."*

– US Attorney Damian Williams

## Criminal fraud

### Evolved Apes NFT scheme leads to criminal charges in the US

Three UK nationals have been charged in the US with conspiracy to commit wire fraud and money laundering. Prosecutors in the Southern District of New York allege that the individuals were part of a scheme to inflate the value of NFTs – specifically the Evolved Apes collection of digital artworks – by making false promises that they were developing a related videogame.

Funds provided by investors were allegedly channelled into the three individuals' private accounts, and the project's website was then shut down. No videogame was developed. This type of scam is commonly known as a "rug pull". Prosecutors say the misappropriated funds, collected from "thousands of people", were then laundered by way of a number of cryptocurrency transactions.

"Digital art may be new, but old rules still apply: making false promises for money is illegal," US Attorney Damian Williams was quoted as saying.

[US DOJ press release](#)

### Official guidance on failure to prevent fraud is delayed

In edition 1 of this newsletter, we reported the addition of the Economic Crime and Corporate Transparency Act 2023 (ECCTA) to the statute books, paving the way (under section 199) for a 'large organisation' to be criminally liable where it fails to prevent a person associated with it from committing a fraud offence intending to benefit (directly or indirectly) the organisation or its clients.

As noted previously, the new law will not come into force until official government guidance on the reasonable fraud prevention procedures which companies will need to put into place in order to have a defence has been published. This guidance was delayed due to the General Election in July, and is now expected in the fourth quarter of 2024. There will be an implementation period of approximately six months after the guidance is published.

To find out more on the topic of criminal fraud, white collar and financial crime, [click here](#)

# Data breaches and data protection

## Ransomware attacks target Christie's and French cultural institutions

Christie's is facing a major class action lawsuit following a May 2024 ransomware attack that potentially compromised up to 500,000 individuals' personal data. The claim, which alleges negligence, unjust enrichment, breach of implied contract, and violation of New York trade law, was filed in June 2024 against the auction house. Christie's was targeted by the ransomware gang RansomHub, who posted online promising to leak confidential personal data held by the auction house about its clientele unless the hackers were paid a ransom. Later posts by the hackers claimed to put the customer data up for auction on the dark web, before it was purportedly sold.

The personal data compromised by the breach contained information collected and retained by Christie's, including clients' full names, dates and places of birth, passport and driving licence numbers, Machine Readable Zones (strings of digits found on passports and other official ID documents used to personally identify an individual), and more. In a

statement, Christie's asserted there was "no evidence" that "copies of documents, signatures, or photographs" held by the house were compromised in the personal information taken by the hackers. The company reaffirmed its continued compliance with GDPR and other relevant data protection regulations.

The global auction house is only one of many high-profile institutions that have been targeted by ransomware attacks in recent months. In August 2024, a network of more than 30 French cultural institutions including museums, online stores and Olympic Game venue locations in Paris were impacted by hackers. Like the Christie's breach, these attacks went after customer information held by the cultural institutions. While the French national cybersecurity agency provided a statement that it did not believe any data had been compromised, the proliferation of ransomware attacks on global institutions raises essential questions about how businesses store confidential customer information.

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[ArtNet on Christie's lawsuit](#) | [ArtNet on French museums](#)





# Intellectual property rights

## Musicians find new ways to defend ownership of intangible cultural property

Earlier this year British singer FKA Twigs provided evidence at a US Senate Judiciary subcommittee on artificial intelligence tools being used to mimic artists' voices and likenesses. The artist testified that she developed a "deepfake," an AI-generated, digital caricature, of herself, that she trained to imitate her movements, voice intonations, and even speak multiple languages. Called "AI twigs" after the musician's stage name, FKA Twigs developed the deepfake version of herself to interact with fans and promote her work in a truly novel way.

The artist chose to produce a cyber twin after considering what it means for artists to own their own likenesses in an era where artificially-developed deepfakes exist. For a creator like FKA Twigs, her voice, movements, and physical

image – intangible pieces of cultural property that are being reproduced and altered by AI technology at an increasing rate – are valuable tools but should remain under the individual artist's control: "What is not acceptable is when my art and my identity can simply be taken by a third party and exploited falsely for their own gain without my consent due to the absence of appropriate legislative control."

Other artists have similar grappled with these questions about who owns an artist's likeness. In April, a plethora of musicians spoke out against the trend towards training AI models with existing work to make music and other digital images that impersonate the artists they seem to depict. The open letter, which was posted by the campaign group Artists' Rights Alliance and warned of the potentially catastrophic impact of AI on human creativity, was signed by 200 artists, including Nicki Minaj, Sam Smith, and the estates of Frank Sinatra and Bob Marley.



## Getting to KNow

# Bex Wade

*Interview by Ellie Fayle, Associate, Dispute Resolution*

*Bex Wade (they/them) is a professional photographer and photojournalist, who recently became the first trans or non-binary artist to have their work on permanent display at the Victoria & Albert Museum in London.*

### **For those not familiar with your work, could you tell us a little about how your career as a photographer started?**

I began taking photos in 2005, in the bars and clubs of the LGBTQIA+ scene in Brighton and Bristol, prior to studying theatre and film at Bristol University as a mature student. Growing up under Section 28 and coming out while still in school, I quickly learned how crucial belonging and community are for young queer people. As I began to explore the freedoms of a post-Section 28 era in gay clubs and bars, I felt a strong need to document those spaces. Back then, without camera phones, I was often the only person with a camera, and I saw it as my responsibility to capture moments of sexuality and self-expression. If we can see ourselves, we create a sense of belonging – that's been a recurring theme throughout my work.

After graduating, I knew I wanted to keep telling stories that mattered to me. I took a leap and moved to New York, where I immersed myself in photographing queer nightlife, live music, and female drummers. Living in Brooklyn, I focused on documenting the lives of minorities within the minority.

I've revisited New York since, but much of the world I captured has disappeared – those vibrant spaces have become apartment blocks, restaurants, and galleries. We're losing queer spaces in London too, and documenting our community and its spaces has become a political act of preservation before they're lost entirely.

### **What is it about photography that so attracted you?**

Photography is a language of its own, one that fosters emotional engagement in ways words often can't. I think I connected with that language at an early age.

As a child, I was lucky enough to occasionally be taken to galleries and museums, but the moment I truly engaged with photography came around age 9, when I saw David Hockney's *Pearblossom Highway* (1986) and I spent my



pocket money buying a card of it in a gift-shop. As a collage of individual photographs depicting an American highway, I was struck by how he used real-life images to create something new; challenging viewers to see the familiar in a completely different way. That's what photography—and art, more broadly—does for me: it encourages an emotional connection while offering a fresh perspective on the world.

### How did you move into photojournalism?

I'm a realist by nature, and I've always been captivated by people and their stories. While at university, I initially aimed to become a documentary filmmaker, but I soon discovered that photojournalism offered an immediate way to document real life as it unfolded.

In 2016, I traveled to Cuba for a storytelling project commissioned by Minority Rights Group (MRG), an international NGO. The project involved capturing photos, interviews, and short films documenting the lives of Afro-Cuban LGBTQIA+ individuals, later used as educational tools by both MRG and the United Nations. During the project, I covered a Pride parade in Havana, which led to my first article for Vice magazine. This piece began a seven-year collaboration with Vice UK's Editor-in-Chief, Zing Tsjeng, who gave me the freedom to document stories and protests centred around marginalised communities. In recent years, my work has increasingly focused on queer and trans rights. Alongside Vice, my photography has been widely featured in *Huck*, *Dazed & Confused*, *British Vogue*, as well as by the BBC and *The Observer*.

### Your work is striking for being so unashamedly political – do you think that it is important that you, as an artist, are reflected in your work?

Absolutely. Art is inherently political, and when it's authentic, the artist's identity becomes inseparable from the work. For me, my identity is always present in what I create. I came out as trans six years ago, at a time when

the media's attacks on trans people were beginning—an onslaught that unfortunately persists today. This fuelled my urgency to document the resistance of my community, focusing on protests and sharing stories around trans healthcare that are dignified, not sensationalised.

Perspective is crucial, and sharing stories of trans people by trans people is essential. A key example is my ongoing documentation of London Trans+ Pride. When the first march took place in 2018 with only 1,500 attendees, it was largely ignored by the media. This summer, 55,000 people marched through London, a powerful testament to our growth. For the past three years, I've proudly covered Trans+ Pride for *British Vogue*. As a trans person documenting this movement, I've been able to authentically share our journey, helping to reshape how these stories are told and understood. Bringing this coverage into mainstream media is my way of countering harmful narratives, and showcasing our community's strength and resilience.

### Given that many artists (certainly photographers) rely on reaching their largest audiences online, what are the challenges that you have encountered with that model?

Social media is a double-edged sword for photographers. On one hand, it's invaluable for reaching a wider audience, sparking movements, and building a strong sense of community. But on the other hand, it can also be one of the worst environments for photographers. Images are vulnerable to theft, copyright infringement, or being misused in harmful ways. Additionally, everyone seems to consider themselves a photographer or journalist these days, which complicates the landscape.

I view my Instagram profile as an extension of my portfolio, a way to share my work and connect with people I would otherwise never reach. However, the platforms themselves offer little protection to creators, despite holding immense power. I've become more cautious about what I share, often self-censoring to avoid having my images removed or my profile "shadow banned". Despite these precautions, I'm always concerned about losing my platform and, with it, my ability to connect with my audience.

My images have frequently been used without permission, which has led to hostile audiences descending on my profile. In some cases, malicious complaints have nearly resulted in my account being shut down. This is a threat many photographers face—if we lose our online platforms, we lose access to our audience and, by extension, our livelihood.

These platforms can also be used as tools for harassment. My images from trans protests have been co-opted by anti-trans movements, used to mock and target the very people I photographed. I take this responsibility seriously, which is why consent is central to my practice. Copyright law is essential for protecting photographers from these abuses, but it often isn't strong enough to fully safeguard our work.



#### ◀ Bloody Mary

*Hudson Hotel, NYC, 2010*

© Bex Wade

**Are those challenges partly what has prompted your recent shift away from photojournalism towards photography as an art form?**

In journalism, there's an expectation of impartiality, but I've often joked that I'm not a great journalist because I care too much. In truth, it's probably made me better at recognising which stories need to be told and how to do that.

However, I'm gradually moving away from that environment, especially some of the publications I've worked with don't always reflect or support the values of my community. Another factor is how undervalued photography can be in journalism. There have been times when I've seen editors, who are primarily writers, take their own, snapshot photos at events instead of hiring professional photographers. That lack of appreciation for the craft can be disheartening.

Art, on the other hand, engages audiences in a completely different way. It invites a deeper, more emotional connection, encouraging people to really spend time with the images. In art, we're conditioned to expect that kind of reflection, whereas photojournalism often doesn't afford the same space for contemplation. Having had my work featured in publications I deeply respect, I feel that I've reached a point where I'm ready for a new challenge. Shifting to an artistic approach allows me to invite my audience to engage

with my work in a more meaningful, introspective way.

For much of my career, my work has existed in a digital space, but I'm now excited to explore how it might live in a physical one, hanging on walls and creating a different kind of presence.

**Let's talk about the V&A. Can you tell us about how having your work on permanent display came about, and what that means to you?**

Last year, I was approached by Zorian Clayton, the Curator of Prints at the V&A. The museum had received funding from Art Fund specifically to expand its permanent collection to include more works by trans and non-binary artists. I was deeply humbled to be part of this effort to address the absence of trans and non-binary representation in one of the world's most renowned photography collections.

The V&A ultimately acquired five of my images, spanning a decade of my career. Three are from New York's dance floors in 2012, including an image of the gender non-conforming performer Christeene. The other two are more recent: one of a trans asylum seeker at London Trans+ Pride in 2022, and another from the same year of someone holding a sign that reads "Trans Kids are a Blessing" at a trans rights protest about banning conversion therapy. What I found



particularly meaningful was that Zorian selected the images based on their importance to him, rather than what I might have prioritised. It felt like a true collaboration in highlighting key moments from my archive.

I was especially thrilled when *Trans Kids are a Blessing* was chosen for permanent display at the Young V&A in Bethnal Green. Knowing that this image will spark vital conversations about supporting trans kids and trans rights is incredibly powerful. It's an opportunity for young people to see themselves represented in a space that has perhaps not always been welcoming. This installation marks a milestone, as I am now the first trans artist to have work permanently displayed at the V&A.

Visibility has always been at the heart of my work. I want my images to reach as many people as possible, amplifying stories that are often overlooked. Growing up, I didn't see people like me represented in institutions like the V&A, so being part of their permanent collection is deeply meaningful. It's a powerful statement about progress and the importance of inclusion. To now have my work hanging in such an iconic space, where it can inspire others, feels beyond anything I could have imagined.

[Bex Wade on Instagram](#) | [Bex Wade's website](#) | [Bex Wade at the V&A Museum](#)

*All images in this section are owned by, and reproduced by kind permission of, Bex Wade.*



▲ **Trans Kids are a Blessing**

*Ban Conversion Therapy Protest, 2022, Vice Magazine*

© Bex Wade

◀ **Choice C\*\*\*s Pride**

*Drom, NYC, 2012*

© Bex Wade



## Proceeds of crime

### Valuable artwork forfeited following money laundering investigation

An NCA investigation has led to the seizure of a landscape painting worth at least £1.6m. In 2019, Lenn Mayhew-Lewis was arrested by West Midlands Police acting on intelligence provided by the NCA. 8kg of gold was found in his Bentley. A subsequent NCA investigation revealed that Mayhew-Lewis had bought a painting by artist Frank Auerbach, titled Albert Street, 2009 for £1.6m in 2017.

According to the NCA, after Mayhew-Lewis purchased the painting (potentially for significantly less than its market value), another individual may have used it as collateral to secure a £5m loan from a UK auction house. This is a known money laundering typology – a method used by criminals to use legitimate companies to hide the origins of the proceeds of crime.

Mayhew-Lewis was convicted of money laundering offences in 2023, but absconded before his sentencing hearing. In his absence, the NCA applied for forfeiture of the gold and the painting under POCA on the basis that the assets were believed to be derived from or intended for use in crime. A court granted a forfeiture order at a hearing on 29 April. The NCA says the assets will be sold with the proceeds returned to the public purse, to be used in part under the Home Office's Asset Recovery Incentivisation Scheme to fight organised crime.

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[NCA press release](#)

### Picasso drawing recovered by US prosecutors

An artwork by Pablo Picasso will be recovered by the US Department of Justice under a deal agreed with the former general counsel of 1Malaysia Development Berhad (1MDB). The DOJ alleges that the artwork and money held in a Swiss account, which together are valued at \$1.8 million, can be traced to the proceeds of funds embezzled from 1MDB by a number of co-conspirators.

The DOJ also obtained civil forfeiture orders relating to art attributed to Vincent Van Gogh, Claude Monet, Jean-Michel Basquiat and Diane Arbus, as well as diamond jewellery, which it says are also linked to the proceeds of the same conspiracy.

1MDB's former general counsel has been charged in the Eastern District of New York with money laundering and bribery offences.

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[US DOJ press release](#)

*Mayhew-Lewis was convicted of money laundering offences in 2023, but absconded before his sentencing hearing.*

# Tax

## Owning art can be taxing

*By Sophie Voelcker and Charles Richardson, both Partners in KN's Private Client department*

### Current position

Works of art acquired by a private collector form part of their estate (i.e. their assets) for tax purposes and fall within the scope of UK inheritance tax (IHT) if:

- the collector is domiciled or deemed domiciled in the UK, in which case all art owned by that collector will be in the scope of IHT whether or not the art is physically in the UK; or
- the art is physically situated in the UK where the collector is domiciled elsewhere.

Whilst deemed domicile is based on tax residence, the concept of domicile is not. Domicile is not defined in tax legislation but, broadly, means the country which the individual considers to be their permanent home and where they intend to see out their days. This leads to uncertainty and potentially enables individuals to spend long periods of time in the UK without becoming domiciled here.

### Change in policy

Earlier this year, the previous UK government announced its intention to replace this domicile-based system with a fully residence-based system, and this change has been confirmed by the new government in its October 2024 Budget. From 6 April 2025, the test for whether assets are within the scope of IHT will depend on whether an individual has been resident in the UK for at least 10 out of the last 20 years before the tax year in which the relevant IHT event takes place. Even if an individual leaves the UK, this new policy will ensure they remain in the scope of IHT for the following 10 years (meaning it is not possible to leave the UK for a year to restart the clock). The time an individual remains in scope after leaving the UK will be shortened where they have only been resident in the UK for between 10 and 19 years. The upshot is however that long term UK residents will be much more likely to fall within the scope of IHT.

### Early gifts

For many years, subject to available reliefs and exemptions, IHT has been charged on death at 40% on the value of an estate exceeding £325,000, when aggregated with the value of gifts made within the preceding seven years. Gifts made to an individual more than seven years before death are ignored. As a result, gifts to individuals totalling £325,000

can be made free of IHT every seven years on a rolling basis and gifts of unlimited value are IHT free if made more than seven years before death. The October 2024 Budget has confirmed that this £325,000 threshold will not be increased before 5 April 2030.

Collectors, including long-term UK residents, may therefore want to consider making early gifts to reduce their potential IHT bill on death. These will be totally exempt from IHT if the collector survives the gifts for seven years but even if they survive for only three years, there will be some benefit because the amount of IHT due in respect of a gift reduces on a sliding scale after three years. The recipient of the gift will generally be liable for any IHT that becomes payable but is able to claim relief if the value of the art has fallen.

However, the collector must not reserve any benefit in the gifted art (if they did, the art would continue to form part of their estate which would defeat the point of the gift) and should not, for example, continue to hang the art in their property. But for those collectors who wish to ensure that the art remains in the family, an early gift is a sensible consideration, particularly if it is expected to increase in value. This is because the IHT value is fixed at the date of the gift. Thought should still be given to insuring the risk of any unexpected IHT liability.

If the collector is resident for tax purposes in the UK, the UK Capital Gains Tax (CGT) consequences of the gift should be considered. CGT will be payable on, broadly, the increase in value of the art from the date when it was acquired by the collector (at the rate of 24% for higher rate income tax payers for disposals on or after 30 October 2024). This will be a dry tax charge – there will be no sale proceeds with which to pay the tax – which could be substantial for a valuable piece of art that has increased significantly (think of a Banksy canvas bought in the 1990s, as an obvious example). A limited CGT annual allowance currently applies with the result that gains not exceeding £3,000 can be made without CGT arising (but this is an aggregate amount across the whole tax year, not per gift, so is likely to be of limited use).

CGT will also be payable on the sale of the art to a third party but the proceeds of sale can then be used to pay the CGT. The net proceeds of sale will still potentially form part of the collector's estate for IHT unless they are also given away.

(Different considerations will apply if the collector is regularly acquiring and selling works of art, as this may amount to a trade with the profits being treated as income and not capital. There may also be VAT implications.)

## Timing problems

Any IHT due following the death of a collector must generally be paid within 6 months after the date of death to avoid interest accruing. Importantly, the IHT must be paid before probate – or letters of administration if there is no will – can be granted.

This can lead to timing difficulties for the personal representatives. Until the IHT is paid, probate cannot be granted, but the personal representatives may need to sell assets to raise the funds to pay the IHT, and they may need the grant of probate to be able to sell those assets. If they need to borrow to pay the IHT, this will be their personal liability, although they can recover an equivalent amount from the collector's estate. This timing issue may have significant implications for the collector's personal representatives and illustrates why the IHT implications of asset ownership should be reviewed regularly.

In some cases, either through choice or through an inability to borrow to pay the IHT, works of art can be transferred to the Crown in lieu of payment of IHT, using the Acceptance in Lieu scheme, and the Crown will then own the art. This may be seen as a last resort for some, but for others using art to pay an IHT bill may mean that other assets can be retained in the family.

## Exemptions

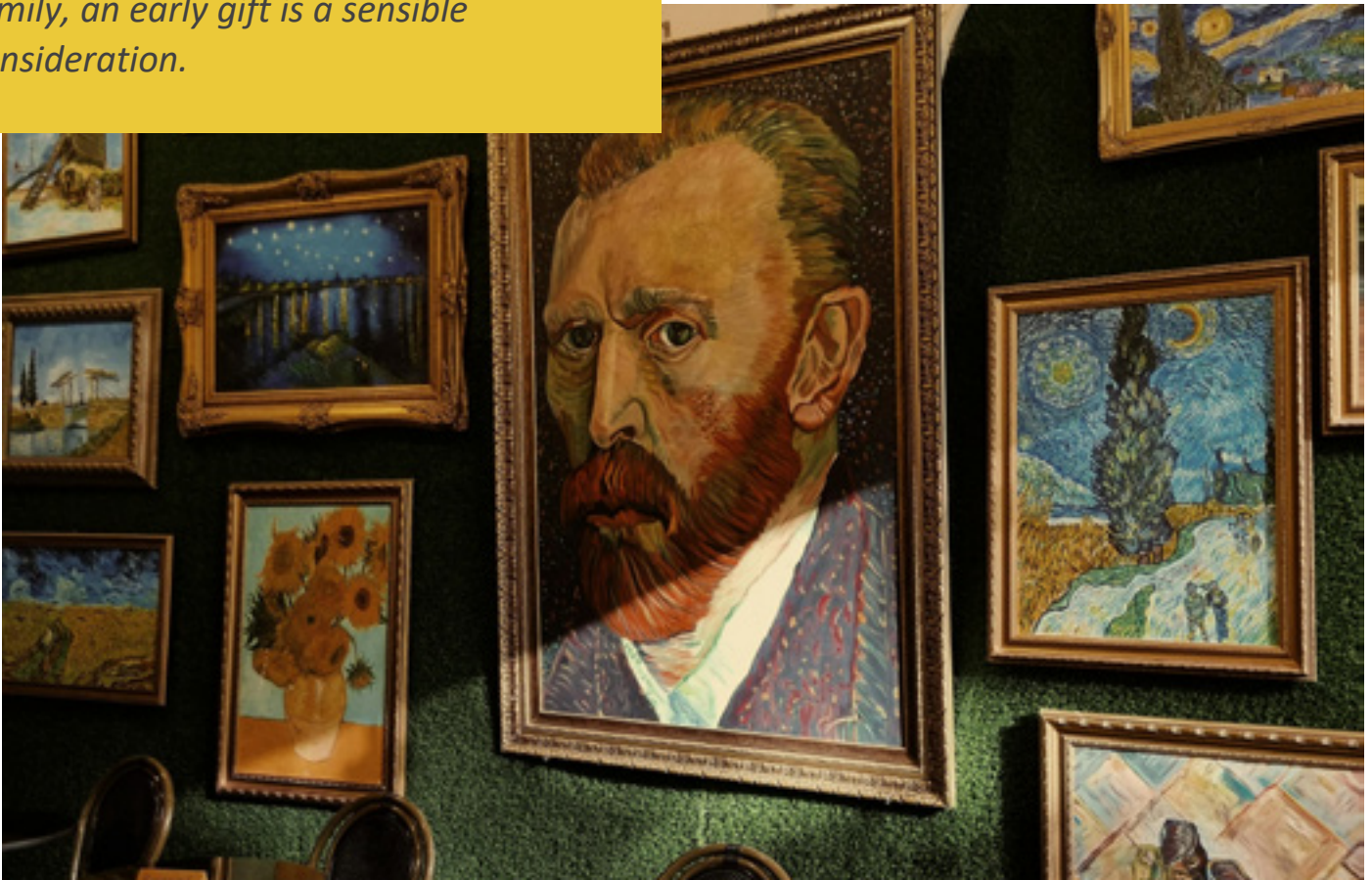
A less drastic alternative may be to claim a specific exemption from both IHT and CGT when works of art pass to a new owner either on death or following a gift. The art must have "national artistic interest" in its own right or because of a connection with a historical building. Inevitably such a valuable benefit comes with obligations. The new owner must undertake to look after the art, to make it available for the public to view and to keep it in the UK. The exemption is withdrawn and the relevant tax must be paid if the new owner breaches the agreement – the clear aim of the exemption is to keep the art in the UK and to make it available for all to view.

Other exemptions which are not art specific may be available to reduce the IHT bill on death, such as exemptions for gifts to a spouse and to charity.

*This is a selection of the UK tax implications of owning works of art. For example, it does not cover the VAT and customs duty implications of importing art into the UK permanently or on a temporary basis for an exhibition or for restoration. There may also be tax implications in other jurisdictions depending on where the art is situated and the collector's tax position. Early advice should always be taken when considering the purchase or sale of a valuable work of art and a regular tax review of a collector's estate would inevitably be prudent.*

*For those collectors who wish to ensure that the art remains in the family, an early gift is a sensible consideration.*

Please contact [Sophie Voelcker](#) or [Charles Richardson](#) to discuss the UK IHT or CGT implications of owning works of art, or your estate generally, or [Matt Spencer](#) to discuss anything else tax-related.



# Theft

## British Museum says it broke the law over theft of artefacts

An internal review has concluded that the British Museum broke the law, with its collection management failings contributing to the circumstances that allegedly enabled a former senior curator to steal or damage more than 2,000 artefacts (as reported in our previous edition).

According to the National Archives, relevant legislation requires that museums "meet basic standards of preservation, access and professional care" and that their collections be in "the care of suitably qualified staff". Admitting that the alleged thefts had revealed "major weaknesses" in how the British Museum secured and documented items in its collection, the report also pointed to a high turnover of senior staff as having increased the museum's "exposure to risk".

The British Museum has initiated civil proceedings against Dr Peter Higgs, former acting head of the Greek and Roman department, alleging breach of his fiduciary duty, breach of his employment contract, and torts (civil wrongs) of conversion and trespass in relation to the missing and damaged items. Following a hearing in March 2024, the High Court granted an order requiring Dr Higgs to disclose information about items missing from the collection and their whereabouts, along with his eBay and PayPal records. The case continues.

Meanwhile, the British Museum continues to attempt to recover the missing artefacts, announcing in May that it had recovered 268 more objects, bringing the total number of items recovered to 626.

[BBC News](#) | [British Museum](#)

## Bronze Age treasure stolen from Cambridgeshire museum

The East Cambridgeshire gold torc and a gold bracelet, both artefacts dating from the Bronze Age, have been stolen from Ely Museum. According to information provided by the museum, two suspects on e-scooters are believed to have broken into the museum in the early hours of 7 May 2024 and smashed a reinforced glass display case using a sledgehammer. The torc is thought to be 3,000 years old. It was found in 2011 by a metal detectorist and is made of 730g of almost pure gold.

In a comment published by The Art Newspaper, Matthew Pope, an associate professor at University College London, said the incident pointed to a lack of investment in the museum sector.

[Ely Museum](#) | [The Art Newspaper](#)



Image source: Cambridgeshire County Council

## Banksy's animal murals spark 'big game' trophy hunting in London

Over a period of nine days this summer, nine new artworks by the world's most well-known street artist, Banksy, appeared across London. Each work was discovered – and highly publicised across social and mainstream media channels – within a few hours of being created. Generating a frenzy of publicity – and apparently intended simply to cheer people up – the artworks were destined for a variety of fates.

Three of the other artworks (the panther in Cricklewood, the piranhas on a police box on Ludgate Hill, and the London Zoo gorilla) were subsequently removed for safety and security reasons. At least two (the rhino in Charlton, and the elephants in Chelsea) were defaced, to the dismay of locals and onlookers. Nonetheless, four of the works remain visible to the public – the monkeys on Brick Lane, the goat in Richmond (behind a perspex screen), the pelicans in Walthamstow, and the rhino (albeit, without its accompanying Nissan Micra). The Ludgate Hill police box is currently at the Guildhall awaiting a permanent display location.

However, one artwork, a howling wolf painted on a satellite dish mounted on a wall in Peckham, was very publicly stolen by three masked men on the same day it appeared. Speculation that the theft may itself have part of the art was quickly put to rest by Banksy's representatives, who quickly issued a statement that he was "neither connected to nor endorses" the theft.

As an article in Fortune magazine pointed out, although it might seem impossible to find a buyer for 'hot' artwork such as this, there are brokers "with dubious morals" who would be willing to facilitate a sale to a private collector. This underscores the importance of conducting full, thorough due diligence to establish the provenance of any work of art, as well as the reputation of the seller and any intermediaries, before making a purchase. Art market participants themselves must also ensure that they comply with the requirements of the 2017 Money Laundering Regulations, including those relating to customer due diligence.

In a separate incident, two men were charged following the late-night theft of Banksy's *Girl with Balloon* from Grove Gallery in central London. A BBC report highlighted that a virtual tour on the gallery's website showed the artwork, "featured on the wall just inside the door of the building". The artwork was recovered several days later.

[BBC News on Banksy in London](#) | [BBC News on Banksy theft](#)



## In other news

### Tower of London's World Heritage status at risk

The iconic Tower of London is at risk of losing its UNESCO World Heritage Site status due to plans to develop the city's financial district. The UN agency was alerted to potential risks to the World Heritage site after the announcement of the City of London Corporation's City Plan 2040, which proposes to build millions of square feet of additional office space in the Square Mile.

The ambitious development plans could place the Tower's UNESCO status at risk linked to the construction of new high-rise skyscrapers, Historic England wrote in a statement to a local reporting service. The independent charity Historic Royal Palaces, which manages the Tower of London, voiced similar worry for the proposed development, stating that its potential impact on the Tower would be "unsound". Historic England's report noted concern for other central London landmarks in the Square Mile, including St Paul's Cathedral and Bevis Marks Synagogue, the UK's oldest synagogue.

The City of London Corporation believes its City Plan 2024 will adequately meet the capital's needs for growth while maintaining conservation efforts.

The UK government is due to submit a State of Conservation Report to UNESCO by 1 December, which details its conservation plans for the Tower. If the government's proposed protection for the cultural site is deemed as insufficient, UNESCO could remove the nearly-1,000-year-old building's World Heritage status. The Tower of London's UNESCO status was last under scrutiny in 2014, when concerns about the development of high-rise buildings were examined by UNESCO's world heritage committee.

[ArtNet](#) | [Smithsonian Magazine](#) | [BBC](#)



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